

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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P.D.,

Plaintiff,

ANSWER

-against-

Case No. 24-CV-778

ANN MARIE T. SULLIVAN, MD, in her  
Official Capacity,

Hon. Nelson S. Román

Defendant.

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Defendant, Ann Marie T. Sullivan, MD, in her official capacity; (“Commissioner Sullivan” or the “Commissioner”), by her attorney, Letitia James, Attorney General of the State of New York (Elizabeth Barbanes, of counsel), answers the Complaint dated February 2, 2024 (ECF No. 4, “Complaint”) as follows:

**NATURE OF THE ACTION<sup>1</sup>**

1. The allegations contained in paragraph 1 of the Complaint constitute Plaintiff’s characterization of this proceeding, to which no response is required. To the extent a response is required, deny the allegations contained in paragraph 1 of the Complaint.

**JURISDICTION AND VENUE**

2. Deny the allegations contained in paragraph 2 of the Complaint; except admit that Plaintiff has commenced this action under the United States Constitution and laws of the United States.

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<sup>1</sup> Defendants utilize Plaintiff’s headings, where applicable, for ease of reference only, and do not admit the truth or applicability of any of the headings as designated by Plaintiff.

3. Deny the allegations contained in paragraph 3 of the Complaint, except admit Plaintiff seeks the relief described and admit that venue is proper in this District.

### **THE PARTIES**

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.

5. Admit the allegations contained in paragraph 5 of the Complaint.

6. Deny the allegations contained in paragraph 6 of the Complaint.

### **STATUTORY FRAMEWORK**

7. As to the allegations contained in paragraph 7 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 7 of the Complaint to the extent inconsistent therewith.

8. As to the allegations contained in paragraph 8 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 8 of the Complaint to the extent inconsistent therewith.

9. As to the allegations contained in paragraph 9 of the Complaint, respectfully refer the Court to the cited government publication as the best evidence and most accurate version of its contents and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.

12. As to the allegations contained in paragraph 12 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 12 of the Complaint to the extent inconsistent therewith.

13. As to the allegations contained in paragraph 13 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 13 of the Complaint to the extent inconsistent therewith.

14. As to the allegations contained in paragraph 14 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 14 of the Complaint to the extent inconsistent therewith.

15. As to the allegations contained in paragraph 15 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 15 of the Complaint to the extent inconsistent therewith.

16. As to the allegations contained in paragraph 16 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 16 of the Complaint to the extent inconsistent therewith.

17. As to the allegations contained in paragraph 17 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 17 of the Complaint to the extent inconsistent therewith.

18. As to the allegations contained in paragraph 18 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 18 of the Complaint to the extent inconsistent therewith.

19. As to the allegations contained in paragraph 19 of the Complaint, respectfully refer the Court to the cited statutes and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 19 of the Complaint to the extent inconsistent therewith.

20. As to the allegations contained in paragraph 20 of the Complaint, respectfully refer the Court to the cited statutes and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 20 of the Complaint to the extent inconsistent therewith.

21. As to the allegations contained in paragraph 21 of the Complaint, respectfully refer the Court to the cited statutes as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 21 of the Complaint to the extent inconsistent therewith.

22. As to the allegations contained in paragraph 22 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents

and deny the allegations contained in paragraph 22 of the Complaint to the extent inconsistent therewith.

23. As to the allegations contained in paragraph 23 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 23 of the Complaint to the extent inconsistent therewith.

24. As to the allegations contained in paragraph 24 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 24 of the Complaint to the extent inconsistent therewith.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint and respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint, and respectfully refer the Court to the cited form as the best evidence and most accurate version of its contents.

27. As to the allegations contained in paragraph 27 of the Complaint, respectfully refer the Court to the cited form as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 27 of the Complaint to the extent inconsistent therewith.

28. As to the allegations contained in paragraph 28 of the Complaint, respectfully refer the Court to the cited form as the best evidence and most accurate version of its contents, and

deny the allegations contained in paragraph 28 of the Complaint to the extent inconsistent therewith.

29. Deny the allegations contained in paragraph 29 of the Complaint.

30. As to the allegations contained in paragraph 30 of the Complaint, respectfully refer the Court to the cited statute, regulation, and case as the best evidence and most accurate version of their contents, and deny the allegations contained in paragraph 30 of the Complaint to the extent inconsistent therewith.

31. As to the allegations contained in paragraph 31 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 31 of the Complaint to the extent inconsistent therewith.

32. As to the allegations contained in paragraph 32 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 32 of the Complaint to the extent inconsistent therewith.

33. As to the allegations contained in paragraph 33 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 33 of the Complaint to the extent inconsistent therewith.

34. As to the allegations contained in paragraph 34 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and

deny the allegations contained in paragraph 34 of the Complaint to the extent inconsistent therewith.

35. As to the allegations contained in paragraph 35 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 35 of the Complaint to the extent inconsistent therewith.

36. As to the allegations contained in paragraph 36 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 36 of the Complaint to the extent inconsistent therewith.

37. Deny the allegations contained in paragraph 37 of the Complaint.

38. Deny the allegations contained in paragraph 38 of the Complaint, and respectfully refer all issues of law to the Court.

39. Deny the allegations contained in paragraph 39 of the Complaint.

40. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint, and respectfully refer all issues of law to the Court.

41. Deny the allegations contained in paragraph 41 of the Complaint except admit that records of individuals involuntarily admitted pursuant to MHL § 9.39 are transmitted to NICS.

42. As to the allegations contained in paragraph 42 of the Complaint, respectfully refer the Court to the cited statutes as the best evidence and most accurate version of their content, and

deny the allegations contained in paragraph 42 of the Complaint to the extent inconsistent therewith.

43. Deny the allegations contained in paragraph 43 of the Complaint.

44. Deny the allegations contained in paragraph 44 of the Complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint.

46. Deny the allegations contained in paragraph 46 of the Complaint.

47. Deny the allegations contained in paragraph 47 of the Complaint.

48. Deny the allegations contained in paragraph 48 of the Complaint.

49. Deny the allegations contained in paragraph 49 of the Complaint.

50. Deny the allegations contained in paragraph 50 of the Complaint.

51. As to the allegations contained in paragraph 51 of the Complaint, respectfully refer the Court to the cited statutes as the best evidence and most accurate version of their contents, and deny the allegations contained in paragraph 51 of the Complaint to the extent inconsistent therewith.

52. As to the allegations contained in paragraph 52 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 52 of the Complaint to the extent inconsistent therewith.

53. As to the allegations contained in paragraph 53 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and

deny the allegations contained in paragraph 53 of the Complaint to the extent inconsistent therewith.

54. As to the allegations contained in paragraph 54 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 54 of the Complaint to the extent inconsistent therewith.

55. Deny the allegations contained in paragraph 55 of the Complaint, and respectfully refer all issues of law to the court.

56. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint.

57. Deny the allegations contained in paragraph 57 of the Complaint and respectfully refer all issues of law to the Court.

58. Deny the allegations contained in paragraph 58 of the Complaint, and respectfully refer all issues of law to the Court.

59. As to the allegations contained in paragraph 59 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 59 of the Complaint to the extent inconsistent therewith.

60. As to the allegations contained in paragraph 60 of the Complaint, respectfully refer the Court to the cited cases and other authorities as the best evidence and most accurate version of their contents, and deny the allegations contained in paragraph 60 of the Complaint to the extent inconsistent therewith.

## **MATERIAL FACTS**

61. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Complaint.

62. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint.

64. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the Complaint.

65. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Complaint.

66. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the Complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Complaint.

68. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Complaint.

69. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Complaint and respectfully refer all issues of law to the Court.

70. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of the Complaint.

71. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of the Complaint.

72. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint.

73. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of the Complaint.

74. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of the Complaint.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Complaint.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint.

78. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Complaint.

79. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of the Complaint.

80. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of the Complaint.

81. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Complaint.

82. As to the allegations contained in paragraph 82 of the Complaint, respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 82 of the Complaint.

83. As to the allegations contained in paragraph 83 of the Complaint, respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 83 of the Complaint.

84. Deny the allegations contained in paragraph 84 of the Complaint.

85. Deny the allegations contained in paragraph 85 of the Complaint.

86. Deny the allegations contained in paragraph 86 of the Complaint.

87. Deny the allegations contained in paragraph 87 of the Complaint, and respectfully refer all issues of law to the Court.

88. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the Complaint.

89. Admit the allegation contained in paragraph 89 of the Complaint. and respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents.

90. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the Complaint.

91. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the Complaint, except admit that there is a New York State administrative process for obtaining a Certificate of Relief from Disabilities Relating to Firearms.

92. Deny the allegations contained in paragraph 92 of the Complaint.

93. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the Complaint.

94. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the Complaint, and respectfully refer all issues of law to the Court.

95. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the Complaint, and respectfully refer all issues of law to the Court.

96. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the Complaint.

97. Admit the allegations contained in paragraph 97 of the Complaint.

98. Admit the allegations contained in paragraph 98 of the Complaint, and respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents.

99. Admit the allegations contained in paragraph 98 of the Complaint, and respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents.

100. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of the Complaint.

101. Deny the allegations contained in paragraph 101 of the Complaint.

102. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 102 of the Complaint.

103. Deny the allegations contained in paragraph 103 of the Complaint.

104. Deny the allegations contained in paragraph 104 of the Complaint.

105. Deny the allegations contained in paragraph 105 of the Complaint.

#### **DECLARATORY JUDGMENT ALLEGATIONS**

106. Deny the allegations contained in paragraph 106 of the Complaint.

107. Deny the allegations contained in paragraph 107 of the Complaint.

108. Deny the allegations contained in paragraph 108 of the Complaint.

109. As to the allegations contained in paragraph 109, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

110. As to the allegations contained in paragraph 110, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

111. As to the allegations contained in paragraph 111 of the Complaint, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

112. Deny the allegations contained in paragraph 112 of the Complaint, and respectfully refer all issues of law to the Court.

#### **INJUNCTIVE RELIEF ALLEGATIONS**

113. Deny the allegations contained in paragraph 113 of the Complaint.

114. Deny the allegations contained in paragraph 114 of the Complaint.

115. Deny the allegations contained in paragraph 115 of the Complaint.

116. Deny the allegations contained in paragraph 116 of the Complaint.

117. As to the allegations contained in paragraph 117 of the Complaint, repeat and reallege each of the foregoing responses made to the allegations in the preceding paragraphs of the Complaint referenced therein, as if fully set forth herein.

#### **AS AND FOR A FIRST CAUSE OF ACTION**

**[Second and Fourteenth Amendments, 42 U.S.C. § 1983]**

118. As to the allegations contained in paragraph 118 of the Complaint, repeat and reallege each of the foregoing responses made to the allegations in the preceding paragraphs of the Complaint referenced therein, as if fully set forth herein.

119. Deny the allegations contained in paragraph 119 of the Complaint.

120. As to the “wherefore” clause of the Complaint, deny that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

121. Deny each and every allegation contained in the Complaint that alleges, or tends to allege, that the challenged action was in any way contrary to constitutional, statutory, regulatory or case law.

122. Deny each and every allegation of the Complaint not specifically responded to above.

### **AFFIRMATIVE DEFENSES**

123. The Complaint fails to state a claim upon which relief can be granted.

124. The Commissioner has not violated or deprived Plaintiff of any rights, privileges, or immunities under the Constitution or laws of the United States, the State of New York, or any political subdivision thereof.

126. The Court lacks subject-matter jurisdiction over this case.

127. Plaintiffs' claims are barred, in whole or in part, by sovereign or Eleventh Amendment immunity.

128. The Complaint is barred to the extent it was not filed within the applicable statute of limitations.

130. Plaintiff has failed to exhaust administrative remedies.

131. The acts or omissions of the Commissioner did not proximately cause any of the alleged deprivations, losses, or injuries of which Plaintiff complains.

132. The challenged statutes, laws and actions at issue in this case do not implicate the Second Amendment.

133. The challenged statutes, laws and actions are fully supported by law, history and tradition.

134. The Plaintiff's claim is barred by judicial or quasi-judicial immunity.

WHEREFORE, the Commissioner respectfully asks that this Court deny the relief requested, dismiss the Complaint, and grant such other relief as to the Court shall seem just and equitable.

Dated: White Plains, New York

March 29, 2024

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LETITIA JAMES  
Attorney General State of New York  
Attorney for Commissioner Sullivan

By:

*Elizabeth Barbanes*

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